



BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB-2023-0012]

Privacy Act of 1974; System of Records

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a modified System of Records; comment request.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Consumer Financial Protection Bureau (Bureau), gives notice of the establishment of a revised Privacy Act System of Records. This revised system will collect information to enable the Bureau to carry out its responsibilities with respect to enforcement of title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act and other Federal consumer financial law, including: The investigation of potential violations of Federal consumer financial law; the pursuit of administrative or civil enforcement actions; and the referral of matters, as appropriate, to the Department of Justice or other Federal or State agencies. The information will also be used for administrative purposes to ensure quality control, performance, and improving management processes.

DATES: Comments must be received no later than **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. The modified system of records will be effective **[INSERT DATE 40 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]** unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments, identified by the title and docket number (see above Docket No. CFPB-2023-0012), by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.]
- *Email:* privacy@cfpb.gov. Include Docket No. CFPB-2023-0012 in the subject line of the email.

- *Mail/Hand Delivery/Courier:* Kathryn Fong, Acting Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically.

All submissions must include the agency name and docket number for this notice. In general, all comments received will be posted without change to <https://www.regulations.gov>. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Kathryn Fong, Acting Chief Privacy Officer, at (202) 435-7084. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*. Please do not submit comments to this email box.

SUPPLEMENTARY INFORMATION: The Bureau revises its Privacy Act System of Records Notice (SORN) “CFPB.004—Enforcement Database” to include the exemptions promulgated for the system that were inadvertently omitted when the SORN was last modified. In addition, the Bureau is updating the policies and practices for retention and disposition of records by identifying a National Archives and Records Administration (NARA) approved schedule applicable to the records maintained in the system. Furthermore, the Bureau is making non-substantive revisions to the SORN to align with the Office of Management and Budget’s recommended model in Circular A-108, Appendix II.

The report of the revised system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A-108, “Federal Agency Responsibilities for Review,

Reporting, and Publication under the Privacy Act” (Dec. 2016),¹ and the Privacy Act of 1974, 5 U.S.C. 552a(r).

SYSTEM NAME AND NUMBER: CFPB.004—Enforcement Database.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

SYSTEM MANAGER(S): Consumer Financial Protection Bureau, Chief Operating Officer, 1700 G Street NW, Washington, DC 20552.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 111-203, title X, sections 1011, 1012, 1021 codified at 12 U.S.C. 5491, 5492, 5511.

PURPOSE(S) OF THE SYSTEM:

The system will collect information to enable the Bureau to: (1) Investigate potential violations of Federal consumer financial law; (2) pursue administrative or civil enforcement actions; and (3) refer matters, as appropriate, to the Department of Justice or other Federal or State agencies. The information will also be used for administrative purposes to ensure quality control, performance, and improving management processes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Covered individuals include: (1) Individuals who are current or former directors, officers, employees, shareholders agents, and independent contractors of covered persons or service providers, who are or have been the subjects of or otherwise associated with an investigation or enforcement action by the Bureau or have been named in connection with suspicious activity reports or administrative enforcement orders or agreement. Covered persons and service providers include banks, savings associations, credit unions, thrifts, non-depository

¹Although pursuant to section 1017(a)(4)(E) of the Consumer Financial Protection Act, Pub. L. 111-203, the Bureau is not required to comply with OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

institutions, or other persons, offering, providing, or assisting with the provision of consumer financial products or services. (2) Current, former, and prospective consumers who are or have been customers or prospective customers of, solicited by, or serviced by covered persons or service providers if such individuals have provided information, including complaints about covered persons or service providers, or are or have been witnesses in or otherwise associated with an enforcement action by the Bureau. (3) Applicants, current and former directors, officers, employees, shareholders, agents, and independent contractors of persons and entities that have business relationships with covered persons or service providers who are or have been the subject of an enforcement action by the Bureau. (4) Current, former, and prospective customers of persons and entities that have business relationships with covered persons or service providers that are or have been the subject of an enforcement action by the Bureau, and the customers are complainants against covered persons or service providers, or witnesses in or otherwise associated with an enforcement action. (5) Other individuals who have inquired about or may have information relevant to an investigation or proceeding concerning a possible violation of Federal consumer financial law. Information collected regarding consumer financial products and services is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other business entities and aggregate, non-identifiable information is not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in the system may contain: Identifiable information about individuals such as name, address, e-mail address, phone number, social security number, employment status, age, date of birth, financial information, credit information, and personal history. Records in this system are collected and generated during the investigation of potential violations and enforcement of laws and regulations under the jurisdiction of the Bureau and may include (1) Records provided to the Bureau about potential or pending investigations, administrative proceedings, and civil litigation; (2) evidentiary materials gathered or prepared by the Bureau or

obtained for use in investigations, proceedings, or litigation, and work product derived from or related thereto; (3) staff working papers, memoranda, analyses, databases, and other records and work product relating to possible or actual investigations, proceedings, or litigation; (4) databases, correspondence, and reports tracking the initiation, status, and closing of investigations, proceedings, and litigation; (5) correspondence and materials used by the Bureau to refer criminal and other matters to the appropriate agency or authority, and records reflecting the status of any outstanding referrals; (6) correspondence and materials shared between the Bureau and other Federal and State agencies; (7) consumer complaints made or referred to the Bureau.

RECORD SOURCE CATEGORIES: Information in this system is obtained from banks, savings association, credit unions, or non-depository institutions or other persons offering or providing consumer financial products or services, current, former, and prospective consumers who are or have been customers or prospective employees and agents of such persons, and current, former, and prospective customers of such entities and persons, and others with information relevant to the enforcement of Federal consumer financial laws.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the Bureau's Disclosure of Records and Information Rules promulgated in the title of the CFR to:

- (1) Appropriate agencies, entities, and persons when (a) the Bureau suspects or has confirmed that there has been a breach of the system of records; (b) the Bureau has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Bureau (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Bureau's efforts to respond to the suspected or

confirmed breach or to prevent, minimize, or remedy such harm;

- (2) Another Federal agency or Federal entity, when the Bureau determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
- (3) Another Federal or State agency to (a) permit a decision as to access, amendment, or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;
- (4) The Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;
- (5) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;
- (6) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the Bureau or Federal Government and who have a need to access the information in the performance of their duties or activities;
- (7) Any authorized agency or component of the Department of Treasury, the Department of Justice (DOJ), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation or other law enforcement authorities including disclosure by such authorities:

- (a) The extent relevant and necessary in connection with litigation in proceedings before a court or other adjudicative body, where (i) the United

States is a party to or has an interest in the litigation, including where the agency, or an agency component, or an agency official or employee whom the DOJ or the Bureau has agreed to represent, is or may likely become a party, and (ii) the litigation is likely to affect the agency or any component thereof; or

(b) To outside experts or consultants when considered appropriate by Bureau staff to assist in the conduct of agency matters;

(8) The DOJ for its use in providing legal advice to the Bureau or in representing the Bureau in a proceeding before a court, adjudicative body, or other administrative body before which the Bureau is authorized to appear, where the use of such information by the DOJ is deemed by the Bureau to be relevant and necessary to the litigation, and such proceeding names as a party or interests:

(a) The Bureau;

(b) Any employee of the Bureau in his or her official capacity;

(c) Any employee of the Bureau in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the Bureau determines that litigation is likely to affect the Bureau or any of its components;

(9) A grand jury pursuant either to a Federal or State grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge;

(10) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-

hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

- (11) Appropriate agencies, entities, and persons, including but not limited to potential expert witnesses or witnesses during investigations, to the extent necessary to secure information relevant to the investigation;
- (12) Appropriate Federal, State, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy, or license; and
- (13) An entity or person that is the subject of supervision or enforcement activities including examinations, investigations administrative proceedings, and litigation, and the attorney or non-attorney representative for that entity or person.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: The records are maintained in paper and electronic media. Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are retrievable by a variety of fields including, without limitation, the individual's name, address, account number, social security number, transaction number, phone number, date of birth, or by some combination thereof.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: The Bureau maintains records in accordance with a National Archives and Records Administration (NARA) approved schedule. The records are covered in item 1 of the NARA approved Records Disposition Authority for Enforcement. The disposition of these records is temporary and are destroyed or deleted six months after the end of the calendar year when the record is created.

The longest retention period would total 18 months if the information is no longer needed to support a Bureau activity. If the record is being used for a specific matter, then it becomes a matter record and is subject to the disposition schedule as it applies to that matter, which can range from one year beyond the year created to permanently archived for historically significant cases. Per NI-587-12-8, records in this system will be destroyed 15 years after cutoff.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RECORD ACCESS PROCEDURES: Individuals seeking access to any record contained in this system of records may inquire in writing in accordance with instructions in 12 CFR 1070.50 *et seq.* Address such requests to: Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Instructions are also provided on the Bureau website: <https://www.consumerfinance.gov/foia-requests/submit-request/>.

CONTESTING RECORD PROCEDURES: Individuals seeking to contest the content of any record contained in this system of records may inquire in writing in accordance with instructions in 12 CFR 1070.50 *et seq.* Address such requests to: Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Instructions are also provided on the Bureau website: <https://www.consumerfinance.gov/privacy/amending-and-correcting-records-under-privacy-act/>.

NOTIFICATION PROCEDURES: See “Record Access Procedures” above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: Portions of the records in this system are compiled for law enforcement purposes and are exempt from disclosure under CFPB's Privacy Act regulations and 5 U.S.C. 552a(k)(2). Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

HISTORY: 76 FR 45757 (Aug. 1, 2011); 79 FR 6190 (Feb. 3, 2014); 83 FR 23435 (May 21, 2018); 85 FR 3652 (Jan. 22, 2020).

Tannaz Haddadi,

Senior Agency Official for Privacy,

Consumer Financial Protection Bureau.

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